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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,816	03/07/2002	Michael P. Ferraioli	FERR-0001	8009

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EXAMINER

SMITH, JAMES G

ART UNIT PAPER NUMBER

3765

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/092,816

Applicant(s)

FERRAIOLI, MICHAEL P. *CH*

Examiner

James G Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-30 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 15-22 is/are rejected.
- 7) ☒ Claim(s) 5-14 and 23-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 & 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "10 degree oval" in claim 17 is used by the claim to mean "the roundness of the oval," while the accepted term for an oval, which is an ellipse, is eccentricity. Eccentricity is defined as a ratio between 0 and 1. Proper correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 18, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Santamaria (6,056,171). Santamaria discloses a footwear donning device having a carriage for holding the footwear, a flexible fore handle coupled to the carriage, and a handle coupled to the fore handle for donning the footwear. With respect to Claim 2, Santamaria discloses the carriage having opposing sides extending beyond the fore handle and a rounded end opposite the fore handle. With respect to Claim 3, the opposing sides are said to be about three and a half inches apart, which is about four inches. With respect to Claim 18, the carriage, fore handle, and the handle are all one single molded unit. With respect to Claim 20, the device also has a horn portion opposite the fore handle. With respect to Claim 21, the device has a hole for storing the device. With respect to Claim 22, the hole is located near the end the horn portion.

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 15, 16 and 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Santamaria (6,056,171). Santamaria discloses that the carrier plate extends approximately four and a half inches beyond the fore handle. This dimension would be dependent upon the end user targeted and being modified to approximately two and a half inches for a larger foot would be within reason. With respect to Claim 15, although the length of the fore handle is not specifically addressed in the Santamaria patent the length of the fore handle appears to be about nine inches long. With respect to Claim 16, the device of Santamaria is said to be about twenty-two and one-quarter inches. This length would be easily modified to be twenty-eight inches long for use by a larger user. With respect to Claim 19, it is well known to have shoe-donning devices made from plastic.

***Allowable Subject Matter***

6. Claims 5-14 and 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 26-30 are allowed.

8. The following is a statement of reasons for the indication of allowable subject matter:

The claims 5-14 all have the limitation of hook lobes being present which are not present on the

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art cited in the Office Action. Claims 26-30 are deemed allowable because of their requirement for hook lobes as well as a shoehorn or a handle, which would enable a user to put on footwear, being attached at the end of the handle.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G Smith whose telephone number is 703-605-4225. The examiner can normally be reached on 8:00-5:00, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on 703-305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

JGS  
March 10, 2003

  
JOHN J. CALVERT  
SUPERVISOR, PATENT EXAMINER  
TECHNOLOGY CENTER 3700